

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEON KENNEDY,

Plaintiff,

v.

Case No. 5:17-cv-11867

District Judge John Corbett O'Meara

Magistrate Judge Anthony P. Patti

ALLSTATE INSURANCE
COMPANY,

Defendant.

**ORDER GRANTING AS UNOPPOSED DEFENDANT'S MOTIONS TO
COMPEL (DE 9, DE 10) and CANCELLING HEARING NOTICED FOR
JANUARY 25, 2018 (DE 12)**

Plaintiff originally filed this lawsuit on May 15, 2017 in state court, based on a sole cause of action for personal insurance protection benefits. (DE 1-2.)

Plaintiff is represented by Thomas R. Quartz of Michigan Accident Associates,

P.L.L.C. (DE 8.)¹ Defendant removed the case to this Court on June 12, 2017 and

has since filed its answer, affirmative defenses, and jury demand. (DEs 1, 3.)

Defendant is represented by Lisa C. Baluha and Prerana R. Bacon of Moblo,

¹ Although attorney Richard Finch's name appeared on the state court complaint (DE 1-2 at 5), it appears he is now with Meridian Law Group in Dearborn, Michigan. See www.michbar.org, "Member Directory." Nonetheless, he remains an attorney of record in this case. Moreover, while it is Defendant's impression that Plaintiff is now represented by Brent Ingram of Michigan Accident Associates, he has yet to file an appearance in this case. (See DE 9 at 1; DE 10 at 1, 4.)

Fleming & Watt, P.C. (DEs 1, 2.) Pursuant to the Court's scheduling order, fact discovery concludes on February 23, 2018 and expert discovery concludes on March 23, 2018. (DE 7.)

Currently before the Court are Defendant's December 5, 2017 motions: **(1)** to compel Plaintiff's production of executed authorizations and for costs incurred (DE 9); and, **(2)** to compel deposition of Plaintiff and Plaintiff's replacement services provider and for costs incurred (DE 10). Judge O'Meara referred these motions to me for hearing and determination, and a hearing was noticed for January 25, 2018. (DEs 11, 12.)

"A respondent opposing a motion must file a response, including a brief and supporting documents then available." E.D. Mich. LR 7.1(c)(1). "A response to a nondispositive motion must be filed within 14 days after service of the motion." E.D. Mich. LR 7.1(e)(2)(B). Thus, in the absence of a scheduling order stating otherwise, Plaintiff's responses to Defendant's December 5, 2017 motions would have been due on or about Friday, December 22, 2017. *See* Fed. R. Civ. P. 6(a), 6(d). To date, Plaintiff has not filed a response to either motion. In fact, since Defendant filed its December 5, 2017 motions, Plaintiff has only filed his January 3, 2018 witness list. (DE 13.)

Upon consideration, Defendant's motions to compel (DE 9, DE 10) are **GRANTED AS UNOPPOSED**. Accordingly, Plaintiff **SHALL**: **(1)** no later than

Thursday, February 1, 2018, produce executed authorizations for records from Advanced Central Laboratory, Choice Physical Therapy, Department of Health and Human Services, Eastpointe Radiologists, P.C., Michigan Surgical Hospital, Mini-Invasive Orthopedics, Rose Pain Management, and St. John Hospital & Medical Center (*see* DE 9-4); **(2)** give testimony at a deposition no later than **February 22, 2018**; and, **(3)** produce Ronnie Williams for deposition within the same time frame. At this time, Defendant's requests for awards of costs and attorney's fees associated with these motions are **DENIED WITHOUT PREJUDICE**. However, these fee requests may be revisited at the hearing on the recently filed motion for order to show cause (DE 14), which has been referred to me for hearing and determination (DE 15) and which will be noticed for hearing under separate cover. At that time, defense counsel may present testimony and documentation in support of its requests. Finally, the hearing noticed for January 25, 2018 (DE 12) is **CANCELLED**.

IT IS SO ORDERED.

Dated: January 22, 2018

s/Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on January 22, 2018, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti